



# House of Representatives

General Assembly

**File No. 50**

*January Session, 2017*

Substitute House Bill No. 5210

*House of Representatives, March 13, 2017*

The Committee on Labor and Public Employees reported through REP. PORTER of the 94th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

## **AN ACT CONCERNING VARIOUS PAY EQUITY AND FAIRNESS MATTERS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 31-75 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2017*):

3 (a) No employer shall discriminate in the amount of compensation  
4 paid to any employee on the basis of sex. Any difference in pay based  
5 on sex shall be deemed a discrimination within the meaning of this  
6 section.

7 (b) If an employee can demonstrate that his or her employer  
8 discriminates on the basis of sex by paying wages to employees at the  
9 employer's business at a rate less than the rate at which the employer  
10 pays wages to employees of the opposite sex at such business for equal  
11 work on a job, the performance of which requires equal skill, effort and  
12 responsibility, and which are performed under similar working

13 conditions, such employer must demonstrate that such differential in  
14 pay is made pursuant to (1) a seniority system, provided time spent on  
15 leave due to a pregnancy-related condition or protected family and  
16 medical leave shall not reduce seniority; (2) a merit system; (3) a  
17 system which measures earnings by quantity or quality of production;  
18 or (4) a differential system based upon a bona fide factor other than  
19 sex, such as education, training or experience. Said bona fide factor  
20 defense shall apply only if the employer demonstrates that such factor  
21 (A) is not based upon or derived from a sex-based differential in  
22 compensation, and (B) is job-related and consistent with business  
23 necessity. Such defense shall not exist where the employee  
24 demonstrates that an alternative employment practice exists that  
25 would serve the same business purpose without producing such  
26 differential and that the employer has refused to adopt such  
27 alternative practice.

28 (c) No employer shall discharge, expel or otherwise discriminate  
29 against any person because such person has opposed any  
30 discriminatory compensation practice or because such person has filed  
31 a complaint or testified or assisted in any proceeding pursuant to  
32 section 31-76.

33 (d) No employer shall inquire about a prospective employee's wage  
34 and salary history before an offer of employment with compensation  
35 has been negotiated and made to the prospective employee unless a  
36 prospective employee has voluntarily disclosed such information.

37 (e) It shall be an affirmative defense in any action against an  
38 employer alleging a violation of subsection (a) of this section that the  
39 employer, within the previous three years and prior to the  
40 commencement of the action, has completed a self-evaluation of its pay  
41 practices in good faith and can demonstrate that reasonable progress  
42 has been made to eliminate wage differentials based on gender for  
43 equal work. An employer shall not use an employee's prior wage and  
44 salary history as a defense to such action.

This act shall take effect as follows and shall amend the following sections:
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Section 1	<i>October 1, 2017</i>	31-75
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**LAB**      *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

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### ***OFA Fiscal Note***

#### ***State Impact:***

<b>Agency Affected</b>	<b>Fund-Effect</b>	<b>FY 18 \$</b>	<b>FY 19 \$</b>
Labor Dept.	GF - Potential Cost	Less than 37,500	Less than 50,000

Note: GF=General Fund

#### ***Municipal Impact:*** None

#### ***Explanation***

The bill prohibits employers from asking about a prospective employee's wage and salary history under certain circumstances and makes several changes to defenses available to employers in a gender wage discrimination lawsuit. To the extent complaints are filed under the bill's provisions, this results in a potential cost of less than \$37,500 in FY 18 and less than \$50,000 annually thereafter to the Labor Department associated with staff overtime for investigation and subsequent hearings.

#### ***The Out Years***

The annualized ongoing fiscal impact identified above would continue into the future subject to the frequency of complaints and investigations.

**OLR Bill Analysis****sHB 5210*****AN ACT CONCERNING VARIOUS PAY EQUITY AND FAIRNESS MATTERS.*****SUMMARY**

This bill prohibits employers from asking about a prospective employee's wage and salary history before negotiating his or her job offer and compensation, unless the prospective employee has already voluntarily disclosed the history.

It also makes several changes to the defenses available to employers in a gender wage discrimination lawsuit. It:

1. prohibits an employer from using an employee's prior wage and salary history as a defense in the suit;
2. prohibits an employer from using a seniority system to defend its pay differentials if the employer reduces an employee's seniority for time spent on leave due to a pregnancy-related condition or protected family and medical leave; and
3. provides an employer with an affirmative defense if, during the three years prior to the suit, the employer (a) completed a self-evaluation of its pay practices in good faith and (b) can demonstrate that it has made reasonable progress to eliminate gender-based wage differentials for equal work.

EFFECTIVE DATE: October 1, 2017

**BACKGROUND*****Gender Wage Discrimination***

The law generally prohibits gender wage discrimination by requiring employers to pay employees an equal wage for a job that (1)

requires equal skill, effort, and responsibility and (2) is performed under similar working conditions. However, employers with pay differentials can defend themselves by showing that the differentials are based on (1) seniority; (2) merit; (3) a system that measures production quantity or quality; or (4) bona fide factors such as job-related education, training, or experience.

**COMMITTEE ACTION**

Labor and Public Employees Committee

Joint Favorable Substitute

Yea    7        Nay   6        (03/02/2017)